

E-Filed on 04/26/07

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
BRETT SEABERT TO APPEAR FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Brett Seabert ("Seabert") to appear, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for examination at the office of Esquire

1 Deposition Services, 1 East Liberty Street, 6th Floor, Reno, Nevada 89504, on a business
 2 day no earlier than ten (10) business days after the filing of this Motion and no later than
 3 May 25, 2007 (or at such other mutually agreeable location, date, and time) and continuing
 4 from day to day thereafter until completed.
 5

6 This Motion is further explained in the following Memorandum.

7 **Memorandum**

8 The Movant seeks information concerning various transactions and other dealings
 9 between (1) Seabert and affiliated entities under his direct or indirect ownership and/or
 10 control; and (2) USACM, the other debtors in the above-captioned cases (together with
 11 USACM, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise
 12 related entities. The Movant seeks this information to assist in the collection of the assets
 13 and the investigation of the liabilities of the Debtors.
 14
 15

16 The requested discovery from Seabert is well within the scope of examination
 17 permitted under Bankruptcy Rule 2004, which includes:

18 [t]he acts, conduct, or property or . . . the liabilities and financial condition
 19 of the debtor, or . . . any matter which may affect the administration of the
 20 debtor’s estate, or to the debtor’s right to a discharge. In a . . .
 21 reorganization case under chapter 11 of the Code, . . . the examination may
 22 also relate to the operation of any business and the desirability of its
 23 continuance, the source of any money or property acquired or to be acquired
 24 by the debtor for purposes of consummating a plan and the consideration
 25 given or offered therefore, and any other matter relevant to the case or to the
 26 formulation of a plan.¹

¹ FED.R. BANKR. P. 2004(b).

Conclusion

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: April 26, 2007.

DIAMOND MCCARTHY LLP

LEWIS AND ROCA LLP

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*Special Litigation Counsel for USACM
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Counsel for USACM Liquidating Trust

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been served on April 26, 2007, by electronic transmission and by United States Mail, first class, postage prepaid and properly addressed to counsel for Brett Seabert at the following address:

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/s/ Eric D. Madden
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